



55 BROADWAY, THIRD FLOOR, NEW YORK, NY 10006

August 5, 2021

By ECF

Hon. J. Paul Oetken
United States District Judge
United States District Court for the Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

Re: *Lavvan, Inc. v. Amyris, Inc.*, No. 20-cv-07386 (JPO)

Dear Judge Oetken:

I write on behalf of Plaintiff, Lavvan, in response to Defendant's letter filed earlier today seeking to extend its time to answer the Complaint until August 23, 2021. Lavvan does not oppose the extension request. Defendant, however, puzzlingly stated in its letter that "Plaintiff Lavvan has refused to agree to the request and has not provided any reason for such refusal." Dkt. 44. That is simply incorrect. While the parties had been in an ongoing discussion about Lavvan's request to schedule a Rule 26(f) conference and Defendant's request of an extension of its time to answer, Defendant did not propose the extension it now seeks until 3:49 pm today. Without waiting for Lavvan's response, Defendant filed its letter with the Court at 5:00 pm, less than 90 minutes later. Contrary to Defendant's representation in its letter, Lavvan did not "refuse" to agree to the extension.

Separately, Defendant has refused to schedule a discovery conference with Lavvan. Rule 26(f) requires the parties to confer "*as soon as practicable*—and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b)" (emphasis added). Defendant, however, first ignored our repeated requests to schedule a conference. Defendant finally responded earlier today after more than a week of simply disregarding the requests, now claiming for the first time that it believes a Rule 26(f) conference to be "premature at this time" because "the Court has not yet set the date for the initial scheduling conference."

Defendant is incorrect: this case is ripe for a discovery conference pursuant to Rule 26(f), and Defendant's refusal to participate in such a conference is improper. We understand that Defendant intends to file a motion to stay this case pending its interlocutory appeal of the Court's denial of Defendant's motion to compel arbitration. But this case is not stayed, and no stay is warranted. Accordingly, Lavvan respectfully requests that the Court direct Defendant to participate in a Rule 26(f) discovery conference as soon as practicable, as Rule 26(f) expressly provides.



We thank the Court for its attention to this matter and regret that the Court has been troubled with matters that the parties should be able to resolve among themselves.

Respectfully,

/s/ Jason Cyrulnik

Jason Cyrulnik

cc: All counsel of record (by ECF)